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9 Attorneys for IRWIN MORTGAGE CORPORATION

10 UNITED STATES DISTRICT COURT

11 DISTRICT OF NEVADA

12
13 COPPER SANDS HOMEOWNERS
14 ASSOCIATION, INC., a Nevada non-profit
15 corporation; MARCIA JARRETT; CHARLES
16 WOOD; RICHARD DRESSLER; RICHARD
17 EMANUEL; PAUL DOYLE; ARLENE
18 MARENTIC; BOJAN NENADIC; EVERETT
19 F. CROXSON; MYRA SCHULTZ; STEVEN
20 GAZZA; MILORAD JAGROVIC; DAVID G.
FERGUSON; JANE SOO HOO LUI; ZUI YI
QIU; DORON GERBY; CATALIN NISTOR;
and HILARY GARBER, on their own behalf
and on behalf of all others similarly situated;
and POE HOMEOWNERS 1 through 2000,

21 Plaintiff,

22 vs.

23 COPPER SANDS REALTY, LLC, a Delaware
24 limited liability company; ROBERT
25 COLUCCI, an individual; DARIO DELUCA,
26 an individual, a/k/a DARIO DE LUCA; CBC
27 INVESTMENTS, INC., a Nevada corporation;
JIM CERRONE, an individual; COMPLEX
SOLUTIONS, LIMITED, a Nevada limited

Case No. 2:10-cv-510-GMN-LRL

Assigned Judge: Hon. Gloria M. Navarro
*[Formerly Case No. 08A560139 in the
Eighth Judicial District Court, Clark
County, Nevada]*

**DEFENDANT/CROSS-CLAIMANT
IRWIN MORTGAGE CORPORATION'S
OBJECTIONS TO STIPULATED
DISCOVERY PLAN AND SCHEDULING
ORDER FILED ON JULY 30, 2010**

liability company; COPPER SANDS INVESTORS LP, a Nevada limited partnership; COUNTRYWIDE HOME LOANS, INC., a New York corporation; CS CONSULTING SERVICE, LLC, a Nevada limited liability company; TERESA CUSHMAN, an individual; RENATO DELUCA, a/k/a RAY DELUCA and RAY DE LUCA; DFT, INC., a California corporation, d/b/a THE CANYON MANAGEMENT COMPANY; SHAWN HEYL, an individual; LYNDA HOANG, an individual; IRWIN MORTGAGE CORPORATION, an Indiana corporation; BRENT JONES, an individual, BRENT JONES SERVICES, INC., a Nevada corporation; MANIETTA ELECTRIC, INC., a California corporation; MORTGAGE LOAN SPECIALISTS, INC., a California corporation; PACIFICA ENTERPRISES HOLDINGS LP, a California limited partnership; PACIFICA ENTERPRISES, INC., a California corporation; PACIFICA ENTERPRISES LLC, a Nevada limited liability company; PACIFICA MARKETING SERVICES, LLC, a Nevada limited liability company d/b/a "CONDO CLUB", "CONDO CLUB LAS VEGAS", and "CONDO CLUB – LAS VEGAS", PACIFICA REAL ESTATE INVESTMENTS, INC., a California corporation; PACIFICA REAL ESTATE SERVICES, INC., a California corporation; PLASTER DEVELOPMENT COMPANY, INC., a Nevada corporation, d/b/a "SIGNATURE HOMES" and "SIGNATURE HOMES, INC.", PREMIER COMMUNITIES, INC., a Nevada corporation; PREMIER FINANCIAL, LLC, a California limited liability company; PREMIER REALTY SERVICES, INC., a California corporation; PREMIER RESIDENTIAL, INC., a California corporation; VIMARK RE ENTERPRISES, LLC, a California limited liability company, DOES 1 through 100, inclusive; ROE CORPORATIONS 1 through 100; ROE BUSINESS ENTITIES 1 through 100,

1 inclusive; and ROE GOVERNMENTAL
2 ENTITIES 1 through 20, inclusive,

3 Defendants.

4 IRWIN MORTGAGE CORPORATION,

5 Cross-Claimant,

6 v.

7 COPPER SANDS REALTY, LLC, a Delaware
8 limited liability company; and DOES 101-200,
9 inclusive,

10 Cross-Defendants.

11 Defendant/Cross-Claimant IRWIN MORTGAGE CORPORATION (“IRWIN”) hereby
12 objects to the “Stipulated Discovery Plan and Proposed Scheduling Order” (“Discovery Plan”)
13 submitted to the Court by Plaintiff’s counsel on July 29, 2010. The Proposed Scheduling Order was
14 filed and signed the next day on July 30, 2010.¹ IRWIN’s objections are made on the following
15 grounds:

16 1. The Discovery Plan was filed without IRWIN having had a reasonable or adequate
17 opportunity to submit any comments or objections to the Discovery Plan. The Discovery Plan
18 appears to have been prepared sometime in early May 2010 after the Rule 26 Meeting of Counsel
19 (“Meeting”), which was held on April 29, 2010. However, since IRWIN did not even appear in the
20 action until June 14, 2010, IRWIN’s counsel was not advised of and had no opportunity to attend the
21 Meeting. Further, IRWIN’s counsel did not even receive a copy of the Discovery Plan from
22 Plaintiff’s counsel until July 27, 2010 – just two days before Plaintiff’s counsel’s office submitted the
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26 ¹ After the Discovery Plan was filed and the Scheduling Order signed, IRWIN’s counsel wrote a
27 letter on August 5, 2010 to Plaintiff’s counsel objecting to the fact that IRWIN was not given an
28 opportunity to provide input and/or object to the Discovery Plan. A true and correct copy of
IRWIN’s counsel’s letter dated August 5, 2010 is attached hereto as Exhibit “A.”

1 Discovery Plan to the Court for filing. The very next day, on July 28, 2010, IRWIN's counsel
2 received a telephone call from Plaintiff's counsel's office and was informed by Plaintiff's counsel's
3 office that Plaintiff's counsel intended to file the Discovery Plan on July 29, 2010 and if IRWIN had
4 any comments or objections to the Discovery Plan – which IRWIN's counsel advised that IRWIN did
5 have – there would be no time to incorporate any of IRWIN's comments and objections into the
6 Discovery Plan and circulate it to all of the other parties for review and signature.

7 2. IRWIN also objects on the ground that the Discovery Plan submitted by Plaintiff's
8 counsel is misleading and inaccurate in the following respects:

9 First, the title of the document (“Stipulated Discovery Plan and Proposed Scheduling
10 Order”) suggests that all parties had stipulated to the Discovery Plan (or at least been given the
11 opportunity to do so), when in fact that is not accurate. Not all parties had stipulated to and/or signed
12 off on the Discovery Plan, and Irwin certainly did not.

13 Second, the Discovery Plan also appears to imply that IRWIN simply chose not to
14 attend the April 29, 2010 Meeting of Counsel when, in fact, IRWIN's did not even appear in the
15 action until June 14, 2010. To the best of IRWIN's counsel's knowledge, it does not appear that
16 IRWIN was even given prior notice of the Meeting.

17 Third, the signature block for IRWIN in the Discovery Plan does not have IRWIN's
18 counsel's law firm's information on it, even though IRWIN's counsel formally appeared in the action
19 on June 14, 2010 and was in communications with Plaintiff's counsel regarding the Discovery Plan.
20 Moreover, the Discovery Plan falsely states that IRWIN had “failed to appear in case at this time.”
21 This is clearly inaccurate. IRWIN filed its Answer and Cross-Claim on June 14, 2010.

22 3. IRWIN believes that had the Court been provided with complete and accurate
23 information in the Discovery Plan, or been made aware of IRWIN's comments and objections, the
24 Court may not have signed the present version of the Scheduling Order. Although IRWIN has since
25 been advised by Jeremy Beasley of Plaintiff's counsel's office that Plaintiff's counsel intends to
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1 prepare and circulate an amended discovery plan and proposed scheduling order at some point after
2 Countrywide Home Loans, Inc.'s Motion to Dismiss Second Amended Complaint is heard and ruled
3 upon², IRWIN believes it is necessary to file these objections now to preserve them and make sure
4 that the record is clear in the event that, for some reason an amended discovery plan and scheduling
5 order are not filed or entered in this case.

6
7 DATED: August 9, 2010

PFEIFER & DE LA MORA, LLP

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10 By: /s/ Michael R. Pfeifer
MICHAEL R. PFEIFER
11 Attorneys for Defendant/Cross-Claimant
IRWIN MORTGAGE CORPORATION
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14 THE COURT HAS APPROVED THE AMENDED STIPULATED DISCOVERY
15 PLAN AND SCHEDULING ORDER (#71). IRWIN MORTGAGE'S OBJECTIONS
16 (#70) ARE DENIED AS MOOT.

17 IT IS SO ORDERED.

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19 UNITED STATES MAGISTRATE JUDGE

20 DATED: 9-2-10

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26 ² Pursuant to the Court's Order signed and filed on July 1, 2010, discovery in this action is stayed as
27 to Countrywide pending an order resolving Countrywide's Motion to Dismiss Second Amended
28 Complaint.

CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2010, I served a true and correct copy of the above and foregoing **DEFENDANT/CROSS-CLAIMANT IRWIN MORTGAGE CORPORATION'S OBJECTIONS TO STIPULATED DISCOVERY PLAN AND SCHEDULING ORDER FILED ON JULY 30, 2010** by Electronic Service via CM/ECF System in accordance with the electronic filing procedures of this Court.


Employee of PFEIFER & DE LA MORA, LLP